UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

UNI	ΓED STATES OF AMERICA)	
)	
	V.)	Docket No. 16-CR-40025-TSH
(1)	IVAN CRUZ-RIVERA and)	
(2)	CARLOS JIMENEZ)	
)	
	Defendants.)	
)	

UNITED STATES' STATEMENT REGARDING PROPOSED JURY INSTRUCTION

The United States, through United States Attorney Andrew E. Lelling and Assistant United States Attorneys Michelle L. Dineen Jerrett and William F. Abely, hereby provides the following statement in support of the proposed jury instruction for Count Two concerning an aiding and abetting theory of culpability.

Count Two of the Indictment references 18 U.S.C. § 2 (Aiding and Abetting) in both the caption, the charging language in paragraph One, and the charging language of paragraph Two. The Indictment also references 18 U.S.C. § 2 in the overall caption on the first page. As such, the Indictment was sufficient to put Defendants on notice that the United States might advance an aiding and abetting theory of culpability.

Moreover, an aider and abettor charge is implicit in all indictments for substantive offenses, and aiding and abetting does not need to be specifically pleaded in a criminal indictment. *See, e.g., United States v. Dodd*, 43 F.3d 759, n. 5 (1st Cir. 1995).

Given the foregoing, the Court should instruct the jury on an aiding and abetting theory as to Count Two of the Indictment

Respectfully submitted,

ANDREW E. LELLING United States Attorney

By: /s/ William F. Abely

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Date: December 13, 2018

CERTIFICATE OF SERVICE

This is to certify that I shall cause a copy of the foregoing document to be served on counsel to Defendants via ECF.

/s/ William F. Abely
WILLIAM F. ABELY
Assistant U.S. Attorney

Dated: December 13, 2018